THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 7731 of 2001

Dated: 16.11.2006

Between:

G. Ganga Mohan.

..... PETITIONER

AND

APSRTC, rep. by its Depot Manager, Banswada, Nizamabad District.

.....RESPONDENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.7731 of 2001

ORDER

Assailing the award dated 22.11.1999, passed by the Labour Court-II, Hyderabad in I.D. No. 164 of 1996, the petitioner filed the present writ petition.

2. The petitioner worked as Conductor in the respondent-A.P.S.R.T.C. On 16.11.1994, while he was conducting the bus on route Tirupathi-Banswada, a check was exercised, and he was charge sheeted on certain cash and ticket irregularities. The petitioner submitted his explanation to the charges. Thereafter, an enquiry was conducted into the charges. The Enquiry Officer, having conducted the enquiry, held the charges proved. Based on the findings of the enquiry report, a notice calling upon the petitioner to show cause as to why he shall not be removed from service was issued. Upon considering the explanation submitted by the petitioner thereto, vide order dated 29.05.1995, the respondent-Corporation ordered his removal. Against the order of removal, the petitioner preferred appeal and review petition, which were rejected by the respondent-Corporation. Thereafter, the petitioner raised an industrial dispute in I.D. No.164 of 1996 and the Labour Court, vide the award impugned in the writ petition, dismissed the same upholding the orders of the disciplinary authority. Assailing the said award of the Labour Court, the petitioner filed the present writ petition.

3. The learned counsel for the petitioner submitted that the Labour Court failed to appreciate that the tickets mentioned in the charges are not used tickets, as they were not sold earlier except while operating the trip in question. He further submits that as the

petitioner is having 10 years of service from the date of his removal, the punishment of removal from service, which was upheld by the Labour Court, may be modified to that of compulsory retirement. He thus, prays to allow the writ petition by setting aside the order of removal.

4. The learned Standing Counsel for respondent-APSRTC submitted that the petitioner, having collected requisite fare from 3 passengers, who boarded the bus at Tirupati and Kodur to Cuddapah, issued tickets to them, which were already issued in the previous trips and unconnected to the service and committed serious cash and ticket irregularities, and the charges leveled against the petitioner were held proved by the Enquiry Officer in the departmental enquiry, and based on the enquiry report, the disciplinary authority imposed punishment of removal from service on the petitioner, which was confirmed by the Labour Court. Having regard to the nature of the proved charges, the punishment of removal from service, cannot be said to be disproportionate, warranting interference therewith by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. He thus prayed that the writ petition be dismissed.

5. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-APSRTC and perused the award of the Labour Court.

6. The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the

findings that are base on suspicion, conjectures or surmises or no reason. It is within these parameters, the award of the Labour Court has to be examined.

7. As can be seen from the award of the Labour Court, the Labour Court, on point No.1, held that the domestic enquiry is valid. The petitioner was charge sheeted alleging that he having collected the requisite fare of Rs.36/- from one passenger, who boarded the bus at Thirupati, and Rs.22/- from two passengers, who boarded the bus at Kodur, reissued three tickets bearing Nos.048/047094 of Rs.30/-E.1 and 166/096110 of Rs.6/-E.1, 138/499565 and 566 of Rs.20/- E.2 and 055/612387 & 388 of Rs.2/-, which were issued in the up trip of same service. The charges leveled against the petitioner, stood proved in the departmental enquiry. The disciplinary authority, considering the nature of the proved charges, imposed punishment of removal from service. The Labour Court, upon analyzing the evidence before it, observed that the petitioner-workman stated in his explanation that since the passengers, who boarded the bus initially, got down from the bus after removing the tickets from the tray, and to cover up the loss, he issued those tickets in the down journey, but he changed his version during the domestic enquiry that the passengers, who traveled in up journey from Cuddapah to Tirupati, again traveled down journey from Tirupati to Cuddapah and they quarreled with him over the fare. The Labour Court, having found that the petitioner, having collected requisite fare from the passengers, re-issued unconnected tickets and intentionally committed serious cash and ticket irregularities, held that the punishment of removal from service imposed by the disciplinary authority is proportionate to the proved charges. The findings arrived at by the Labour Court

being based on proper appreciation of the evidence on record, I see no reason whatsoever to interfere therewith, more so when the charges leveled against the petitioner stood proved in the departmental enquiry and the petitioner also failed to point out any infirmities in the conduct of the departmental enquiry.

8. In **Divisional Controller, KSRTC (NWKRTC) v. A.T. Mane**[1], the apex Court held that once a domestic tribunal based on evidence comes to a particular conclusion, normally it is not open to the appellate tribunals and courts to substitute their subjective opinion in the place of the one arrived at by the domestic tribunal. On the question of quantum of punishment, the apex Court held as follows:

> Coming to the question of quantum of punishment, one should bear in mind the fact that it is not the amount of money misappropriated that becomes a primary factor for awarding punishment, on the contrary, it is the loss of confidence which is the primary factor to be taken into consideration.

9. In the instant case, the charges leveled against the petitioner stood proved, and having regard to the gravity and seriousness of the proved charges, the respondent-Depot Manager having lost confidence in the petitioner, removed him from service. In such circumstances, I am of the considered opinion that no interference is called for with the impugned award passed by the Labour Court, which upheld the punishment of removal from service imposed on the petitioner by the disciplinary authority, as confirmed by the appellate and review authorities.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 16.11.2006
sj/ksr

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[1] (2005) 3 SCC 254